HIGH COURT OF UTTARANCHAL AT NAINITAL

(Court's order whether the case is or not approved for reporting.)

(Chapter VIII Rule 32 (2)(b)

Description of the case.

WP S/B No. 352/2002

Jay Nand Prasad Tyagi

Vs

State of Uttaranchal

Chief Engineer, Irrigation

Approved for reporting.

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~~Not approved for reporting~~

Date of decision 24.2.06

Initial of Judge

IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

WRIT PETITION NO. 352 (SB) OF 2002
Interim Relief Application No. 1711 of 2006

Jay Nand Prasad Tyagi S/o Sri Sugan Chandra Tyagi
R/o B-244 Lower Lakhawad Colony, Dak Patthar.
.....Petitioner.

Versus

1. State of Uttaranchal, through Chief Engineer, Irrigation Department (Karmik Anubhag), Dehradun.
2. State of U.P. through Secretary, Irrigation Lucknow.
3. Chief Engineer, Yamuna Project, Irrigation, Dehradun.
4. Superintendent Engineer Lakhwad Braci Nirman Mandal (T), Dehradun.
5. Executive Engineer Lakhwad Colony Khand, Dak Patthar.

.....Respondents.

24.02.2006

Sri S.S. Yadav, learned counsel for the petitioner.
Sri Nanak Chand Gupta, Learned standing counsel for the respondents.

Hon'ble Rajesh Tandon, J.

Heard Sri S.S. Yadav, Learned Counsel for the petitioner and Learned Standing Counsel for the respondents.

By the present writ petition, the petitioner has prayed for a writ of mandamus commanding the respondents No.1 to release the arrears, salary and bonus etc. in favour of the Petitioner like regular employees.

Briefly stated the petitioner was appointed as Supervisor on 19.03.1971 as Work charge employee and since then he is continuously working. The Government of Uttar Pradesh has issued a Government order on 17.11.1993 by virtue of which scheme regarding the work charge employee was introduced. Petitioner has submitted that in the year 1985, State Government has completely prohibited engagement of person on workcharge establishment vide G.O. No. 5424/05-23 Sin.7-10(20) 85 dated 19.09.1985.

Petitioner has submitted that he has filed several representations on 17.03.2000, 05.08.1998, 17.03.1997 and 04.3.2002 before the authority concerned but of no avail.

In ***Writ Petition No. 91 of (S/S) of 2003 Bhaguli Devi Vs. State of Uttaranchal and others,*** similar controversy arose, where the employee concerned has worked on daily-wage for about 16 years and this Court has held as under:-

"For the reasons recorded above, since the petitioners' husband was continuing in employment for more than 16 years, petitioner is entitled to get benefit of Uttar Pradesh Recruitment of Dependants of Government Servants Rule 1974, which has been adopted by the State of Uttaranchal.

In view of the above discussion, I direct the respondents Authorities to consider the claim of the petitioner for providing her appointment under Uttar Pradesh Recruitment of Dependants of Government Servants Rules 1974 within a period of six weeks from the date of production of certified copy of this order."

As will appear from the aforesaid decision that the appointment on compassionate ground should not be delayed as it being not a recruitment but its object is to help the deceased family from starvation and further to save from the hardship caused to the family after the death of the bread earner.

In view of the aforesaid, the respondent No.1 is directed to decide the representation dated 04.03.2002 for the payment of retirement benefits etc. in accordance with G.O. dated 17.11.1993 within a period of 6 weeks in accordance with law.

The writ petition is disposed of. No order as to costs.

(Rajesh Tandon, J.)

24.02.2006
Jain